

STATE OF MICHIGAN
COURT OF APPEALS

In re ARS Minor.

PHILLIP SCHNEBELT and PAMELA
SCHNEBELT,

UNPUBLISHED
June 12, 2014

Petitioners-Appellants,

v

No. 318638
Shiawassee Circuit Court,
Juvenile Division
LC No. 13-003727-AF

DEREK MUSALL,

Respondent-Appellee,

and

KAYLEIGH MARIE SCHNEBELT,

Respondent-Appellant.

Before: WILDER, P.J., and SAAD and K. F. KELLY, JJ.

PER CURIAM.

Petitioners appeal the trial court's dismissal of their suit to adopt the child. For the reasons stated below, we affirm.

I. FACTS AND PROCEDURAL HISTORY

Petitioners are the child's maternal grandparents, and they sought to adopt the child. Respondent, the child's father, thereafter filed a complaint for paternity and asked the trial court to adjourn petitioners' request for adoption. After it held an evidentiary hearing for the adoption petition, the trial court dismissed petitioners' request for adoption and ruled that respondent is the child's legal father. Petitioners' appealed the trial court's decision to our Court.

II. ANALYSIS

This case involves the interplay of the Adoption Code, MCL 710.21 *et seq.*, and the Paternity Act, MCL 722.711 *et seq.*, previously addressed by our Court in *In re MKK*, 286 Mich

App 546; 781 NW2d 132 (2009). Although an adoption proceeding “must be completed as quickly as possible, and, in general, be given priority on the court’s docket . . . there may be circumstances in which a putative father makes a showing of good cause to stay adoption proceedings in favor of a paternity action.” *Id.* at 562. In such circumstances, the court looks to the following factors to determine whether to adjourn the adoption suit:

[I]n cases such as this, where there is no doubt that respondent is the biological father, he has filed a paternity action without unreasonable delay, and there is no direct evidence that he filed the action simply to thwart the adoption proceedings, there is good cause for the court to stay the adoption proceedings and determine whether the putative father is the legal father, with all the attendant rights and responsibilities of that status. Upon a motion to stay the adoption proceedings, the trial court must make a good cause determination based on the particular circumstances of each case. [*Id.*]

Here, respondent’s identity as the real father has never been in doubt, nor was it ever disputed by the mother—in fact, she notified respondent of her pregnancy shortly after she learned of it. Nor was respondent’s delay in filing his paternity complaint unreasonable. After the child was born, the mother allowed respondent to have contact with the child. However, as stated in the trial court’s opinion, respondent and the mother “had a rather bumpy on again off again relationship.” Respondent’s access to the child, controlled by the mother and the maternal grandmother, was inconsistent. However, it seemed that respondent believed his relationship with the child’s mother would improve and “they would be able to work something out the way they always had.” Once the adoption petition was filed, it became clear that respondent would not be able to informally negotiate with the mother and her family for access to the child, and he promptly filed his complaint for paternity. Moreover, respondent does not seem to have filed the action simply to thwart petitioners’ request for adoption—instead, it appears that he wants to ensure he has a relationship with the child. Despite his separation from the child’s mother, respondent has made some effort to remain in the child’s life: he testified that he visited the child twice a week, cared for her during the visits, and that he would be willing to pay child support.

Accordingly, the trial court appropriately adjourned the adoption proceedings in favor of the paternity action, and properly dismissed the adoption proceeding once it held respondent to be the legal father.

Affirmed.

/s/ Kurtis T. Wilder
/s/ Henry William Saad
/s/ Kirsten Frank Kelly